ADEQ Water Quality Division (WQD) SFY18 EOY Assessment
October 30, 2018

The following summary reviews ADEQ's performance for State Fiscal Year 2018 (SFY18). The evaluation is based on commitments in the workplan, reports/submittals and considered information gathered during ongoing program conference calls.

A. Administration

Revenue

ADEQ Water Quality Division (WQD), hereafter "ADEQ", receives approximately $5.6 million in federal funds annually. These funds represent 25% of ADEQ's operating budget. In addition, ADEQ receives approximately $3.7M in State Revolving Funds (SRF). Revenues consist of monies appropriated by the legislature, fees received from: certified operators for the issuance and renewal of their operator certifications, fees received from technical reviews of permit applications, annual permit fees, review of facilities (DW & WW), as well as, drywall registration fees.

Workplan and Grants

Excluding SRF, the bulk of federal funding is awarded annually through a Performance Partnership Grant (PPG) which combines Clean Water Act (CWA) 106, Public Water System Supervision (PWSS) and Non-point Source (NPS) funds. ADEQ also receives a separate monitoring grant and NPS projects grant. ADEQ develops an annual integrated workplan covering all activities and commitments for federally and non-federally funded tasks, based on a SFY (July 1- June 30). The draft workplan is reviewed by the relevant program leads and managers (Water and Enforcement), and followed by discussion/negotiations (in some cases, formal meetings). Previous year activities and commitments are considered to determine technical capacity and program successes and priorities. Priority setting amongst core program activities is often the focus of discussions as well as collaboration across programs. The integrated workplan provides a comprehensive look at the work being performed by ADEQ. The PPG also includes general and program-specific grant conditions, all of which ADEQ met in SFY17.

EPA and ADEQ have implemented several changes over the last few years to improve reporting and accountability. For example, ADEQ converted the integrated workplan into a database format to improve EPA and ADEQ's ability to track water quality program efforts. In SFY19-20, ADEQ is transitioning to a multi-media PPG to include Air and Waste programs in addition to Water. ADEQ and EPA held a LEAN Kaizen event in January 2018, which successfully drove the transition from a Water-only PPG and workplan to a multimedia PPG and workplan.

Staffing

The ADEQ WQD has approximately 110 staff and is constantly recruiting to fill priority vacancies. EPA funded, as well as grant matching, staffing is approximately 61 FTE.

Rule Making

All agencies in Arizona have been bound by a Governor's rules moratorium since 2009. The Governor's Regulatory Review Council may grant an exception if the regulatory change lessens or eases a regulatory burden. Although this additional requirement creates delays in the rulemaking process, ADEQ has been successful in obtaining exceptions to the moratorium.

EPA Oversight

EPA and ADEQ's partnership is formalized in the Performance Partnership Agreement, or PPA (formerly the "Arizona Accord"), which was revised and renewed on April 18, 2017. The PPA is an agreement describing our relationships and joint efforts to protect human health and the environment. This supplements MOAs associated with program approval and delegation. EPA program leads hold regular calls with ADEQ program counterparts as well as official midyear and end-of-year reviews. EPA Water Division and EPA Enforcement Division work together to oversee program implementation.

The workplan defines outputs and reporting. Review of outputs is by the program. Separate accountability tools are used as well to assess progress, e.g. monthly ICIS reports on permit issuance, or routine program calls. With multiple funding sources, the various grant projects officers also coordinate efforts.

B. Clean Water Act

Water Quality Standards

In late June of 2017 ADEQ began a new process for the Triennial Review of Water Quality Standards (TR), which emphasizes stakeholder meetings and working groups, and is a more complex process than previous TRs. Like previous TRs, to begin this process ADEQ received a waiver to the Arizona Governor's executive order aimed at reducing regulatory burden by preventing accretion of rules, an uncommon step for most states. The TR working groups deliberated throughout FY18 and the TR package is expected to be submitted in FY19. The TR is now spearheaded by ADEQ's recently hired Monitoring and Assessment Unit Manager and the Legal Specialists with the ADEQ Water Division.

The EPA supports increased stakeholder involvement in development of the TR; but is concerned that to incorporate additional outreach and still meet state-driven timelines, ADEQ has decreased early engagement with EPA staff. Early engagement is an efficient way for EPA to raise red flags or offer support prior to ADEQ engaging with the public. Early engagement is called for in Appendix B of the PPA, especially items 2 and 3: "The agencies will jointly work to reduce the waste created by multiple rounds of comments and edits to documents, permits, and Workplans", and "When possible ADEQ will provide the EPA opportunities to review and comment on documents subject to EPA jurisdiction prior to the public comment period". Over the last year, ADEQ staff requested EPA support for complex issues with little advance warning and on very quick timeframes (sometimes less than 24-hours). A better understanding of ADEQ's process and timeframes ensure EPA is providing appropriate and timely support to ADEQ through the significant and important completion of the current TR process and submission.

ADEQ also continues the development of two numeric nutrient standards. Region 9 supports this work by coordinating with the EPA Office of Water's (OW) Nutrient Scientific Technical Exchange Partnership & Support (N-STEPS) program. In FY18, teams began collecting and analyzing data in support of criteria development for rivers and streams. ADEQ is currently responding to comments from an FY18, N-STEPS funded, external review of the lakes and reservoirs criteria. Region 9 will continue working with OW, N-STEPS, ADEQ, and the US Fish & Wildlife Services to support the development of these standards.

Ambient & 106 Monitoring

In FY18 ADEQ declined participation in the field sampling efforts of the 2-year National Rivers and Streams Assessment (NRSA). Instead, EPA contractors will sample Arizona waters to support this component of the National Aquatic Resource Surveys (NARS); contractors are funded from a portion of ADEQ's 106 Monitoring Initiative (106 MI) grant allocation. The NARS program currently rotates through resource types every five years; sampling is done by the state unless otherwise requested. EPA appreciates ADEQ's involvement in ongoing NARS program development discussions. The Regional NARS coordinator will continue to advocate for ADEQ at the national program coordination level to ensure the needs of arid Southwestern states are captured in the national survey.

ADEQ addresses its surface water monitoring plans through the annual Sampling and Analysis Plan (SAP) and the long term Comprehensive Monitoring Strategy (CMS). Combined, these two documents have addressed 106 MI grant fund prerequisites and scope of work. ADEQ's CMS expired at the end of 2017 and ADEQ decided to continue with the expired CMS until it could complete a new long-term strategy in 2020. However, the FY19 SAP, developed during FY18, significantly changes ADEQ's sampling priorities. Previous SAPs contained probabilistic ambient monitoring directives that supported CWA requirements (Sections 305(b) and 303(d)) to assess all state waters and identify impaired waters. The FY19 SAP moves resources first to revisit current impairments for potential de-listing from impairment and drops overarching probabilistic directives.

In FY17 the Department began work with citizen science groups to build capacity for water quality monitoring which will be used in grant effectiveness monitoring and "Clean Water Plan" monitoring. The data collected by these groups is quality controlled by ADEQ. This work has continued into FY18 and beyond: ADEQ continues to build on the success of a mobile device app that leverages ESRI's Survey123 platform as part of a larger one-stop-shop for Arizona citizens.

Water Quality Assessment and Total Maximum Daily Load (TMDL) Development

In August 2018, ADEQ submitted the CWA Section 303(d) List of waters requiring a Total Maximum Daily Load (303(d) List) for review through EPA's newly launched Assessment, Total Maximum Daily Load (TMDL) Tracking and Implementation System (ATTAINS). In the 2018 303(d) List, ADEQ applied more recent and accurate data to de-list waters from the 2016 List and requested that the EPA add five additional waters for mercury-in-fish-tissue impairments; additional assessments were not otherwise conducted. The EPA agreed that ADEQ could apply much of its assessment findings from the 2016 303(d) List to the 2018 303(d) List,

and then provide a robust and comprehensive 303(d) List and CWA 305(b) integrated report as part of the 2020 submission. For the 2020 assessment, ADEQ should ensure that all readily available water quality data, including data submitted by the public and available from other sources, are assembled and considered. Both the 2016 and 2018 Lists lacked the addition of data submitted by the public due to automated data collection and assessment calculation issues. If ADEQ plans to use an automated data assessment system to assist development of the integrated report, system development will likely need to be completed in 2019 so that the system is ready for use when needed. The EPA recognizes and appreciates the efforts to bring the integrated report process closer to guidance and requirements while also migrating to a new reporting system.

In FY18, ADEQ continued to make progress in drafting Total Maximum Daily Loads (TMDLs) for impaired waterbodies. Of the four TMDLs in development: two TMDLs to address copper impairments have been challenged by local dischargers following their respective public comment period, ADEQ is working to address these concerns. The two remaining TMDLs in development are "Clean Water Plans" (CWP) which combine a TMDL with CWA Section 319 funds and other state efforts. The CWPs are on the Upper Santa Cruz River and the Upper San Pedro River, both focusing on E. coli impairments. The Upper Santa Cruz TMDL is still in draft, ADEQ anticipates submitting this TMDL to EPA in early FY19. The Upper San Pedro TMDL development started more recently, and will be supported through ADEQ's watershed based re-alignment; ADEQ anticipates submitting this TMDL in FY20. The EPA will continue to support TMDL development efforts through responsive early engagement.

NPDES Permitting

Highlights:
In SFY18, ADEQ continued to issue good quality permits in a timely manner, meeting the national performance target of 90% current. Continuing in their LEAN efforts, ADEQ has been able to reissue individual permits in less than 180 days on average, excluding long-backlogged permits. This year, ADEQ was also able to reissue 2 permits (North Rim and South Rim WWTP) that had been backlogged for over 7 years, as recent data showed a variance was no longer needed.

ADEQ's total % permits current is 90%, similar to SFY17. This estimate factors in majors, minors, Phase I MS4s, and general permits. According to the SFY18 output report, ADEQ issued 33 individual permits, terminated 2 permits due to recent WOTUS determinations, and backlogged 1 permit due to a complex mixing zone. Most of the backlog is due to expired Phase I MS4 individual permits and 6 expired general permits.

ADEQ also continued to add to their user-friendly interface "myDEQ" for general permit applicants to submit or change notices of intent (NOIs) or notices of termination (NOTs). ADEQ set up this function for the deminimus, industrial stormwater, and construction stormwater general permits, and is working to include an interface for the Phase II MS4 general permit that should allow direct comment on annual reports via the dashboard. This interface allows ADEQ to provide a system for which permittees can comply with the e-reporting rule and also helps ADEQ in their effort to go paperless.

In SFY18, ADEQ lost 3 permit writers due to retirement or separation, but has been able to backfill 2 positions in the Individual Permits Unit and is hoping to shortly backfill one position in the Stormwater and General Permits Unit. It is vitally important to backfill the permit writer in the Stormwater and General Permits Unit, given the concerns listed below.

Also, as a result of a mixing zone training put on by EPA Region 9, ADEQ contracted with the instructors to do a specific analysis of Arizona's mixing zone rules and provide recommendations to improve implementation flexibility and protectiveness. Based on the recommendations, ADEQ is now working to change their mixing zone policy in their water quality standards as part of the next triennial review. This proactive initiative will improve how ADEQ determines the appropriate size of a mixing zone in future permit reissuances, as it will be based on site-specific conditions rather than an arbitrary distance.

Concerns**:**

1. **Multi-sector General Permit (MSGP):** Reissuance of the multi-sector general permit was a priority for SFY16, SFY17, and SFY18, but continues to be delayed. It was originally delayed due to workload associated with the controversial reissuance of the Phase II MS4 general permit, and milestones were renegotiated at the SFY17 midyear meetings. In SFY18, ADEQ missed deadlines due to a lack of resources and a focus on setting up myDEQ and EPA renegotiated the schedule again. EPA also included a grant condition in the FY19 multimedia PPG that requires ADEQ to reissue the permit by January 2019. EPA recently received an early draft of the permit and expects ADEQ to meet the grant deadline. This permit is particularly important to reissue, as it covers more than 1,000 permittees.

2. **Other GPs:** Reissuances of the Construction Stormwater, Infrequent Discharger, Minor Discharges, and Biosolids general permits were scheduled for SFY18, but ADEQ did not meet the schedule in the grant workplan due to various technical issues. At midyear, the schedules for these general permits were renegotiated to the end of calendar year 2018. In addition, the Pesticides general permit is also proposed to be reissued at the same time.

3. **Phase I MS4s:** Seven (7) of the eight (8) Phase I MS4 permits continue to be expired. ADEQ plans to combine coverage of these dischargers into one (1) general permit after the MSGP is reissued. The high number of backlogged Phase I MS4 permits impacts ADEQ's ability to continue to meet the national performance target of 90% permits current and places pressure on the Individual Permits Unit to maintain their success at almost 100% current. EPA continues to encourage ADEQ to consider starting the process of reissuing these permits in parallel with reissuance of the MSGP, rather than waiting until after the MSGP is reissued.

4. **ICIS Permit Status Information**: As in previous years, the ICIS database does not include a complete list of general permits with issuance dates. ADEQ has made efforts to address this issue, and in our recent EOY discussion, EPA and ADEQ agreed to take specific steps on both sides to clean up the information in ICIS. We appreciate ADEQ's

attentiveness to addressing this issue, as it is important for ADEQ to receive national credit for their accomplishments.

Non Point Source (NPS) Program and Project (CWA 319) Management

The Watersheds Protection Unit (WPU) in the Surface Water Section oversees the majority of the Nonpoint Source Program (NPS), such as managing the NPS projects funds, watershed outreach, developing watershed plans, etc. The WPU has 12 staff and one supervisor. Other sections of ADEQ's Water Division utilize portions of the CWA 319 Program funds to fund staff for NPS related work. The WPU is comprised of NPS program implementation and project oversight. Program implementation is based on the State NPS Management Plan (SMP), which establishes goals, objectives, activities, and milestones. NPS program accomplishments are detailed in an Annual Nonpoint Source Program Report and an end-of-year integrated Water Division report. Project oversight includes the solicitation for project proposals, awarding projects, and oversight of projects that improve water quality.

While we recognize that water quality monitoring is a challenge for ADEQ, specifically evaluating post-NPS project effectiveness. We hope to see future monitoring successfully carried out by either a contractor, state staff, or other means in order to determine project effectiveness. EPA is pleased that water quality has started to improve as a result of the Hillside Mine effort. Preliminary results show a 36% reduction in zinc, which is above the load reduction model estimate of 30% reduction in zinc. Currently remediation is occurring on the adit on the middle tailings pile and should be done within a year.

EPA acknowledges and appreciates ADEQ's stated intent to target resources in FY'19 in 3 priority watersheds (Verde River-Oak Creek, Bradshaws and Upper San Pedro River. EPA anticipates that ADEQ's focus on specific watersheds will be an adjustment from your previous support of 8 targeted watersheds. We realize that a lot has been learned from past years, and are also concerned that previous investments and progress in these other watersheds might be lost. The University of Arizona's contract to provide project BMP load reduction estimates appears to have run its course and ADEQ should train its staff to calculate load reductions to build internal capacity. The Tonto success story was submitted on time, we are waiting on revisions from ADEQ in order to finalize and submit to EPA Headquarters.

Concerns:

1. Even though ADEQ has not designated the Upper Santa Cruz River watershed as a priority in the upcoming year, it is still an important investment and EPA hopes to help move this watershed along towards restoration as best we can. EPA requests that ADEQ not entirely disinvest from the watershed and continue to seek solutions to improving water quality through NPS projects.
2. Last year, Clean Water Plan commitments were missed for the Upper Santa Cruz River (May 2018) and Upper San Pedro River (February 2018). We understand the slippage is due to staffing at DEQ and Friends of the Santa Cruz River and look forward to reviewing these plans in the new fiscal year (May 2018).
3. Note that fifty-one percent ($3,872,116) of the NPS project funds awarded to DEQ are not yet obligated. EPA will evaluate whether ADEQ has met the goal of less than 40% unliquidated obligations (ULO) for the NPS grants in April when EPA conducts the NPS

Program Satisfactory Progress Determination.

Clean Water Act 604(b)

In SFY 2018, ADEQ began implementing a competitive approach to distributing CWA 604(b) funds. In previous fiscal years, ADEQ passed through at least 40% of the CWA 604(b) funds (of their $100,000 annual award), as required by law. The remaining funds (60%) went to a ADEQ staff position to administer the program. The 40% pass through was distributed to 5 Council of Governments (COGs) to update CWA 208 Plans.

In SFY 2018, ADEQ announced that they were making available 100% of the annual CWA 604(b) funds to planning entities, and then implemented a competitive request for proposals process. ADEQ received numerous proposals and, ultimately, the City of Buckeye, City of Scottsdale, and ASU received funds to develop innovative stormwater plans. All funds for the SFY2018 CWA 604(b) grant have been expended.

Concerns:

1. EPA understands that the 604(b) competitive process was labor-intensive for DEQ, and the COG's did not agree on the decision to compete the funds, this past year. If ADEQ chooses to modify the passthrough funding process, EPA will support you.

Wetlands and 401

EPA reviewed the SFY18 Final Output Report regarding 401 CWA actions. There is one Task 3.2: CWA 401 Certification Review of Federal Permits and Licenses. The deliverables require a table of the 401 certifications processed including the type of permit, project name, action and date of action. ADEQ complied with Task 3.2 and provided a table of 401 actions.

In order to improve interagency coordination and collaboration, a condition in the SFY18 grant required ADEQ to contact EPA prior to 401 certification on projects where EPA has identified water quality concerns through written or phone correspondence to ADEQ. This condition has been continued in the SFY19 grant. Implementation of the grant condition to date has resulted in improved interagency coordination through sharing of project specific information and expertise. This has resulted in better informed decision-making at the state and federal level.

Border

In FY18, ADEQ was an effective partner on U.S.-Mexico border issues, actively engaging on transboundary water issues along the Arizona-Sonora border. Their actions were particularly helpful in Naco and Nogales.

In Naco, ADEQ was very helpful in bringing attention and concerted effort to address transboundary sewage flows. They helped identify the location, extent, source and immediate cause of the spills. They engaged with other agencies and helped devise and implement immediate actions to eliminate the spills. ADEQ convened federal, state and local authorities to improve communications related to spills. Later, as spills continued to recur, ADEQ provided funding to the North American Development Bank to fund immediate actions to eliminate the existing spills, and they supported efforts to identify long-term solutions to prevent future spills.

In Nogales, ADEQ was actively engaged in addressing binational pretreatment concerns and the International Outfall Interceptor. ADEQ helped implement binational wastewater characterization studies to identify the sources of heavy metals into the Nogales, Sonora, sewer system. They engaged with the industrial community seeking support for better control of industrial sources of metals, culminating in the preparation of letters to companies in the U.S. associated with metal plating companies in Nogales, Sonora. These letters were co-signed by ADEQ, the International Boundary and Water Commission and EPA. ADEQ highlighted the vulnerability and potential for catastrophic failure of the International Outfall Interceptor, which conveys wastewater from Nogales, Sonora, and Nogales, Arizona, to the Nogales International Wastewater Treatment Plant. ADEQ engaged with stakeholders along the Santa Cruz River who benefit from the high-quality effluent from the treatment plant to seek innovative funding mechanisms for rehabilitating and maintaining the interceptor.

CWA Enforcement and Compliance

Inspections: The Water Quality Surface Water Section is responsible for all surface water enforcement and compliance work for the Division. EPA's 2014 Compliance Monitoring Strategy (CMS) requires the inspection of majors once every two years (50%) and the inspection of all minors once every five years (20%). Since EPA inspected three major mining facilities and one major facility was terminated in SFY18, ADEQ revised its target from 28 facilities (50% of the majors) to 24 facilities at the mid-year review. ADEQ met this target by conducting 24 major inspections. ADEQ inspected more than 20% of its 78 minors in SFY16 and SFY17, so it set a lower target of 6 minors in SFY18 to meet the overall goal of inspecting 60% of its minors over three years (20% per year over 5 years). ADEQ exceeded this target by conducting 8 minor inspections, thus exceeding the CMS inspection goals for minor facilities. Additionally, ADEQ responded to 66 citizen complaints related to the Clean Water Act (19 stormwater + 47 other), resulting in 15 non-routine inspections (all were stormwater). In SFY16 and SFY17, ADEQ had targets of conducting 6 sanitary sewer system (SSS) inspections in the workplan each year, which would meet the CMS goal of inspecting 5% of the permitted SSS, but failed to conduct the inspections each year because their SSS inspection program was still under development. In SFY18, ADEQ set a target of inspecting 3 SSS at the mid-year review. ADEQ met this target and plans to meet the full CMS goal of 6 SSS inspections in SFY19.

In SFY18 ADEQ met or exceeded its stormwater inspection targets of 75 industrial and 55 construction (40 Phase 1 and 15 Phase 2) inspections by conducting 76 industrial and 55 construction inspections (36 Phase 1 and 19 Phase 2). Not only did they exceed SFY18 target goals, they also exceeded the SFY16 and SFY17 inspection numbers for these source categories. Although EPA's CMS sets goals of 10% of all industrial facilities and 5-10% CMS goals for construction facilities, EPA had agreed in the past to lower commitments given the resource limitations at ADEQ. For SFY19, EPA and ADEQ agreed to increase inspection targets to 100 industrial and 100 construction inspections. The CMS goals for the stormwater programs also include audits of MS4s. The state met their target of 8 MS4 Phase II audits in SFY18 and inspected one Phase I MS4, thus exceeding their target of zero.

Arizona has roughly 100 CAFOs statewide covered by AZ APP permits and 1 CAFO subject to AZPDES permits (requiring inspection once in a 5-year cycle). Since the AZPDES permitted

facility did not require inspection in SFY18, ADEQ set its target to zero CAFO inspections and exceeded that target by conducting one CAFO inspection as part of the permit renewal process.

ADEQ exceeded its SFY18 inspection targets for the biosolids program of 11 inspections by inspecting biosolids operations at 12 major POTWs, 4 large commercial facilities, and 2 small applicators for a total of 18 inspections. Biosolids are inspected as part of AZDEQ's overall inspections of POTWs. ADEQ met its target of 26 annual report reviews submitted under the biosolids rule. Detailed biosolids language incorporating requirements in AZDEQ's biosolids program and site management practices was included in AZPDES permits and APP permits issued to POTWs. ADEQ did not identify any biosolids violations or reasons to take enforcement actions in SFY18. In SFY19, ADEQ will send EPA a draft of their general biosolids permit for review and will continue its transition to electronic reporting. Electronic reporting must be implemented in 2020.

Pretreatment Program: Arizona has delegated authority to implement the federal pretreatment regulations. Core regulatory duties are as follows:

1) Review all annual reports submitted by POTWs with approved pretreatment programs and provide written feedback when program deficiencies are found.
2) Conduct pretreatment compliance audits (at least once every five years for each approved POTW pretreatment program).
3) Conduct pretreatment compliance inspections (at least twice every five years for each approved POTW pretreatment program).
4) Perform annual inspections of POTWs with SIU-oversight-only pretreatment programs (at least once every five years for each program).
5) Review and approve pretreatment program submittals and modifications.

Additionally, there is a specific PPG target for ADEQ to support pretreatment work in the Ambos Nogales border region, as industrial wastewater from Mexico has caused or contributed to NPDES permit violations at the Nogales International Wastewater Treatment Plant (NIWTP). During SFY18, ADEQ continued enforcement efforts to compel the International Water Boundary Commission to meet the pretreatment requirements in the NIWTP NPDES permit, and continued to work with wastewater representatives in Nogales, Arizona, and Nogales, Sonora, to support implementation of the pretreatment conditions in the NIWTP NPDES permit.

During SFY18, Arizona met most of their pretreatment targets, and are working to complete the remaining targets. Specifically, ADEQ met its inspection targets (7 compliance inspections) and auditing targets (4 pretreatment audits of approved pretreatment programs), but is still working to complete report review targets (8 of 19 annual reports have been completed to date). ADEQ also coordinated closely with EPA on pretreatment enforcement actions and EPA’s industrial user inspections in Arizona.

In SFY19, EPA looks forward to ADEQ’s continued progress in pretreatment commensurate with its target numbers.

Data Management and Reporting: While ADEQ met the Phase 1 e-reporting deadlines for individual permits in January 2018, ADEQ was unable to meet the e-reporting deadlines for

general permits due to their AZPDES program application development requirements. Therefore, EPA and ADEQ agreed to include a programmatic grant condition in the SFY17 and SFY18 Work Plan:

"AZPDES General Permit e-Reporting

ADEQ will develop and launch a new AZPDES storm water web tool by June 1, 2017. This web tool will allow users to submit new applications (Notice of Intent to Discharge or NOI), waivers from coverage, notice of termination (NOT) and inform users of the DMRs required for compliance with their permit and the Federal NPDES e-reporting rule. The AZPDES permits available for this web tool will be Construction General Permit, Multi-Sector General Permit and De Minimis General Permit. ADEQ is developing the AZPDES storm water web tool to facilitate its ultimate goal of transferring general permittee DMR data to EPA's Integrated Compliance Information System (ICIS) database and meeting the Phase I e-reporting requirements for general permit dischargers by January 1, 2018.

(a) ADEQ will develop new permitting tools for NOI, Waiver and NOT for the AZPDES storm water web tool by June 1, 2017.

(b) ADEQ will provide monthly written progress update reports to EPA starting **August 1, 2016** on the AZPDES storm water web tool tasks in parts (a) and (b) above and (c)(1),(2).
   1) Development of tools for customers to submit e-DMR.
   2) Transmittal of DMR and permit data to ICIS.

(c) ADEQ will provide EPA with written notification upon completion of each milestone in part (b) and completion of the new AZPDES storm water web tool (part (a))."

ADEQ completed the development of the Construction and Multi-Sector General Permit applications on schedule by June 1, 2017. ADEQ completed the development of the De Minimis General Permit application on schedule by January 1, 2018. ADEQ also provided EPA with a well written and easy-to-follow monthly progress report.

Concerns:

1. Although ADEQ was successful in meeting the Phase 1 e-reporting deadline set in the workplan for all individual permits (January 2018), they have not met this deadline for entering all general permits required in Phase 1 for e-reporting. ADEQ has indicated that they are still in the deployment of the web tool to meet this requirement before the end of 2018.

Enforcement: EPA continued generating automated Quarterly Noncompliance Reports (QNCR) in SFY18. The QNCR provides detailed NPDES compliance status for major permittees. Major facilities are flagged as being in Significant Noncompliance (SNC) if they have acute or chronic effluent limit violations that exceed EPA's criteria for magnitude and duration. Major facilities may also be flagged as SNC for late submittal of discharge monitoring reports. Flagging SNC violations is an important tool for targeting enforcement to the highest priority violations. State enforcement response to SNC violations is a critical measure that EPA uses in our oversight of State NPDES enforcement programs. ADEQ worked cooperatively to

address the SNC facilities flagged in quarterly letters from EPA and the number of facilities that are in SNC has decreased significantly.

In SFY18, ADEQ issued 4 Administrative Orders (AO), closed 2 AO, issued 48 Notices of Opportunity to Correct (NOCs) and Notices of Violation (NOVs) and closed 36 NOCs and NOVs. ADEQ's SFY18 enforcement compliance compares favorably with ADEQ's SFY17 enforcement compliance (6 AO opened, 1 AO closed, 49 NOCs/NOVs issued, 38 NOSs/NOVs closed).

C. Safe Drinking Water Act

Summary of State Drinking Water Program

On, September 10, 2018, the U.S. Environmental Protection Agency Region 9 (EPA) conducted an end-of-year evaluation of the Fiscal Year (FY) 2018 of Public Water System Supervision (PWSS) program, administered by the Arizona Department of Environmental Quality (ADEQ). ADEQ regulates 1,515 public water systems serving 6,483,942 citizens of Arizona. These water systems are divided into 746 community water systems (CWS), 197 non-transient non-community water systems (NTNCWS) and 572 transient non-community water systems (TNCWS). Based on this review, the ADEQ continues to implement an effective drinking water program meeting all but one of the EPA National Water Program Measure targets for drinking water.

ACS Code	EPA National Water Program Measures	State Results	FY18 EPA National Target
2.1.1	Percent of the population served by community water systems that receive drinking water that meets all applicable health-based drinking water standards through approaches including effective treatment and source water protection.	91%	92%
SP-1	Percent of community water systems that meet all applicable health- based standards through approaches that include effective treatment and source water protection.	91%	87%
SP-2	Percent of "person months" (i.e. all persons served by community water systems times 12 months) during which community water systems provide drinking water that meets all applicable health- based drinking water standards.	95%	95%
SDW-15	Number and percent of small PWS (< 500, 501-3,300, 3,301-10,000) with repeat health-based DBP1, TCR, Nitrate/Nitrite or SWTR violations	5	Indicator
SDW-17	Number and Percent of Schools and Childcare Centers That Meet All Health-Based Drinking Water Standards.	74 / 95%	Indicator

State Resources

The State currently implements the PWSS program using the annual EPA PWSS grant and required state match.

FY2018 EPA PWSS Grant Award	$1,418,000
FY2018 State Match	$472,667
FY2018 Total Funds Available	$1,890,667

As of September 2018, ADEQ had expended their total PWSS grant award of $1,418,000.

In addition, ADEQ requested, and received, funding for all available Drinking Water State Revolving Funds (DWSRF) set-asides, including the 2% Small System Technical Assistance Set-aside; the 10% State Program Management Set-aside; and the 15% Local Assistance Set-aside (for Wellhead Protection, and Capacity Development).

FY2018 15% Set Aside	$1,866,680
FY2018 10% Set Aside	$1,487,900
FY2018 2% Set Aside	$297,580
FY2018 Total Funds Available	$3,652,160

The Arizona PWSS program also implements various fee-based programs (design review, Monitoring Assistance Program, operator certification) which supplements total program funding. In recent years, ADEQ has also relied on special line appropriations from outside the PWSS program fee funds. A change to Arizona statute in FY18 redirects the first $1.8 million of Arizona's tax on water use revenue within the drinking water program, to ensure that the drinking water program has a sustainable source of revenue. The drinking water program continues to hire, to include new positions in support of necessary PWSS program related data management system upgrades. The drinking water has had staff turnover and has not been fully staffed throughout FY18.

Status of Rule Adoption

ADEQ has regulatory authority and interim primacy for all federal rules promulgated to date. EPA provided comments to ADEQ and the Arizona Attorney General's office in November 2017 on the legal opinion regarding Arizona's environmental audit privilege laws. The matter remains unresolved pending EPA review of a subsequent legal interpretation and analysis by the State submitted on August 17, 2018. ADEQ did not submit any primacy rule packages in FY2018. In FY2019, ADEQ will continue to work with EPA to submit a complete and acceptable Attorney General's statement to address their audit privilege law and address the backlog of primacy rule packages. The transfer of responsibility for primacy package development from the Water Director's Office to the Drinking Water Section should facilitate more timely completion of primacy packages for EPA review and approval. In FY2019, EPA expects to receive and process primacy rule package: PWS Definition, Arsenic, and Radionuclides rules.

Sanitary Surveys

In FY2018, 348 sanitary surveys were conducted by ADEQ. ADEQ is working to meet the target for CWS sanitary surveys (86.7% as of Quarter 2 FY2018). ADEQ also reports a lower compliance rate for NTNCWSs (66.0%) and TNCWSs (61.0%).

DWSRF Program Integration: Capacity Development and Small System Support

In FY2016, ADEQ completed a Small Water System Compliance Assistance Plan (SWSCAP). This SWSCAP defined ADEQ's resource toolbox for addressing the needs of small systems. Since 2016, ADEQ has refined many of their tools and implementation practices. In their FY2018 strategic plan update (found on the ADEQ website), ADEQ planned various projects to support small systems in meeting SDWA requirements. ADEQ changed their approach resulting in more direct engagement with small systems by dedicated staff serving as a single ADEQ point of contact. Working with other regulatory partners, such as the Arizona Corporation Commission and the Water Infrastructure Finance Authority of Arizona, ADEQ is better able to help fund water system infrastructure and management through the Arizona small drinking water fund. ADEQ's capacity development program complements grant funds with technical assistance to water systems.

During FY2018, ADEQ returned to compliance 31 water systems. To proactively reduce water system non-compliance in FY2019, ADEQ is taking a holistic look at monitoring data to predict non-compliance, engage water systems early, perform root cause analysis to keep water systems off the non-compliance list. Thirty-eight water systems are currently in violation of a health-based standard (including lead/copper action level exceedance). By 2022, ADEQ's goal is to reduce the number of water systems in violation of a health-based standard to below 20. In FY2019, they plan to reduce the number of net drinking water systems serving drinking water not meeting federal standards from 35 to 27.

DWSRF Program Integration: Operator Certification

For FY2017, ADEQ met the annual Operator Certification (OpCert) submittal reporting requirement and has demonstrated ongoing implementation of their OpCert Program.
All 1,515 PWSs in Arizona must retain the services of a certified operator. In FY2018, the Operator Certification Program made it a priority to work with PWSs not listed as having a certified operator of record in ADEQ's database. At the conclusion of FY2018, over 99% of PWSs complied with this requirement.

For FY2019, ADEQ will be asked to review and utilize the National Desk Guide for Reviewing State Operator Certification Programs Annual Reports, published July 31, 2018, for development of their annual report. The purpose of this document is to provide a framework for consistent EPA review of state OpCert annual reports. States that follow the reporting format and provide the requested documentation will better facilitate EPA review and formal SRF withholding decision.

ADEQ is asked to consider the need to modify AAC R18-5-103, which establishes a certification committee. This stakeholder activity is not active and the program may consider options to replace this activity with an equivalent one, to meet anti-backsliding requirements.

Rule Implementation

In January 2018, ADEQ received the draft report for the PWSS Program Review/File Review conducted by EPA in October 2016. ADEQ agreed with all of the findings and EPA finalized the report in June 2018. New standard work processes created since the 2016 Program Review address the majority of the EPA findings. ADEQ has implemented a skills matrix to review staff training needs. ADEQ agreed with EPA's findings that they should perform regular oversight reviews of county delegated programs and provide training to delegated county staff every year. ADEQ plans to review Maricopa County in January 2019 and Pima County the following year.

In the review EPA found, that ADEQ identifies and adequately follows up on findings of significant deficiencies during sanitary survey, but fails to post Treatment Technique violations in SDWIS when the significant deficiencies are not addressed by the water system. Furthermore, while ADEQ sends required Public Notices for violations of drinking water requirements to the customers, on behalf of the water systems that fail to do so. ADEQ does not currently track Public Notice in SDWIS/State. ADEQ indicated that they intend to develop a Public Notice process in FY19 that will work with the functionality of SDWIS Prime.

Data Management and Reliability

ADEQ uses the Safe Drinking Water Information System (SDWIS) State v3.33 for managing PWSS program data and FedRep version 3.51 for reporting data to EPA HQ. These, the most current versions, support federally required reporting on all drinking water rules. ADEQ reports that they use the SDWIS State Compliance Decision Support (CDS) module to identify and validate candidate violations, which supports consistent interpretation of drinking water regulations and should result in more complete, accurate, and timely compliance data.

The Compliance Monitoring Data Portal (CMDP) and the Safe Drinking Water Information System (SDWIS) Primacy Agency (Prime) are phases 1 and 2 of SDWIS modernization. The CMDP, released in September 2016, allows water laboratories and public drinking water systems to electronically share drinking water data with their states and tribal agencies. ADEQ is the first agency in Region 9 to implement CMDP for electronic reporting of analytical results by its largest laboratory. ADEQ expects several government agency labs to begin reporting through CMDP soon, with many smaller labs adopting CMDP over the next few years. CMDP reportedly reduces staff time previously spent manually entering data, identifying data-entry errors, and issuing data resubmittal requests, freeing staff to focus on preventing and responding to public health issues in their communities.

The SDWIS Prime application, due for release in March 2019, moves SDWIS to a centralized platform, which should reduce operating costs and improve information exchange between primacy agencies, regulated entities, EPA regions, and EPA HQ. Its Business Rules Engine incorporates modern decision support technology to determine compliance with national primary

drinking water regulations, and SDWIS Prime will reportedly provide compliance decision audit trail reports and electronic data verification, while its modernized user interface will Improve the user experience and increase efficiency of business processes. Like most primacy agencies using the current generation of SDWIS, ADEQ plans to adopt SDWIS Prime once it is released and proven stable and capable of supporting all required business processes.

Lab Certification

The Arizona Department of Health Services (ADHS) certifies 87 drinking water laboratories, 53 in Arizona and 34 out of state. ADHS renews drinking water laboratory certifications every other year, which is more frequent than the triennial requirement. EPA follows the Manual for the Certification of Laboratories Analyzing Drinking Water Samples, 5th Edition to evaluate ADHS's laboratory certification program. EPA conducted an on-site evaluation of ADHS's State Laboratory on August 21, 2018. EPA issued the audit report on September 7, 2018, to document that ADHS is meeting or exceeding all federal requirements.

Source Water Protection

The ADEQ Source Water Protection (SWP) Program had another very successful year in FY18 even though Program staff had to direct a majority of their time and resources to implementing the PFOA/S Sampling Project and the Unregulated Contaminant Monitoring Rule IV. Despite this, the Program achieved all of its major SWP targets: (1) SWP plans were completed for four systems--two school non-transient non-community public water systems, and two community public water systems; (2) Underground storage tank (UST) monitoring data reviews were conducted for potential follow-up investigation at six UST sites near public drinking water wells; and (3) 23 public outreach events were conducted, many combined with PFOA/S outreach events. When possible, staff continued to work with their Clean Water Act colleagues to evaluate watershed plans' potential to protect drinking water sources, and adding SWP areas to the ADEQ's watershed GIS. Compiled GIS nitrate layers will aid in targeting nonpoint source funding to aquifers with elevated nitrate levels.

Ground Water Program

ADEQ is moving forward on UIC Primacy development. EPA has provided guidance documents and templates to ADEQ's UIC Team. Additionally, bi-weekly ADEQ/EPA UIC Primacy development calls have been scheduled which will initially focus on state UIC regulations. Other key topics to address are federal cross-cutters/NEPA compliance and non-regulatory aspects of UIC program implementation (e.g., staffing, O&M, fee structure, etc). ADEQ anticipates submitting a complete UIC Primacy application to EPA in Summer 2020.

ADEQ's Aquifer Protection Permit (APP) program shares information with EPA's UIC program on UIC regulated sites that are also subject to state APP permitting. Sharing of information and regular updates helps ensure coordination of federal/state oversight and efficiency in ADEQ's and EPA's permitting process.

During our EOY discussion, ADEQ and EPA shared information specifically on the proposed Excelsior Gunnison Copper Project, and the active permits for Morton Salt and the Florence Copper Production Test Facility (PTF). The APP for the Gunnison Copper Project was effective

in 2017. EPA issued the federal UIC permit for the Gunnison Copper Project in June 2018, and stayed the entire permit pending an appeal to EPA's Environmental Appeals Board. We also discussed the status of the Morton Salt facility and Florence Copper's pre-operational activities. Florence Copper has recently completed construction and submittal of the pre-operational reports for EPA and ADEQ review and approval prior to authorization of injection for in-situ copper recovery.

ADEQ also evaluates potential for adverse impacts to groundwater quality from recharge injection wells or recharge basins. Recharge is a means of storing excess water supplies underground so that they may be used in the future. Arizona Department of Water Resources (ADWR) encourages treated wastewater to be reused in this way to replenish groundwater supplies. Both ADWR and ADEQ's APP program have permitting requirements for injection of treated wastewater used for aquifer recharge and recovery. ADEQ's APP program evaluates these projects and requires an APP, unless exempted, to protect the receiving aquifer from potential contaminants. In ADEQ's report, EPA received an update on APP review of recharge projects that are also subject to our UIC requirements for Class V injection wells.

In addition to coordinating on the UIC and APP permitted projects, ADEQ has provided annual updates to EPA of its drywell (Class V injection wells) database for EPA's UIC database. A person who owns an existing or proposed drywell in Arizona must register the drywell with ADEQ. ADEQ's APP Program evaluates these wells to determine the need for a general APP to protect Arizona aquifers that serve as drinking water sources. EPA also requires owners/operators of injection wells (e.g., drywells or any other Class V injection well), which are "authorized by rule" pursuant to the Class V UIC requirements, to submit inventory information for the federal database. The drywell update from ADEQ ensures that our UIC database has up-to-date totals for these wells which represent the largest number of injection wells in Arizona.

Drinking Water Enforcement

The EPA FY 2018 OECA Annual Commitment System (ACS) commitment for drinking water requires that states address the number of priority systems equal to the number of its Public Water Systems (PWSs) that have a score of 11 or higher on the July 2017 Enforcement Targeting Tool (ETT) report by issuing a formal enforcement action or verifying return to compliance. Systems with an ETT score of 11 or higher, with unaddressed violations for more than six months are potential candidates for escalated enforcement actions. ADEQ's success at addressing violations is tracked by means of the quarterly ETT reports. At the beginning of July 2017, there were 36 facilities with a score of 11 or higher. As of July 2018, 28 of these systems had a score of 11 or less. ADEQ has implemented a state-operated ETT system by the name of "ETT Live." Per ADEQ, "ETT-Live" provides more accurate and real-time updates to the ETT scores. This allows ADEQ to provide more accurate ETT scores and updates during quarterly discussions with EPA.

EPA's Drinking Water Enforcement Response Policy (ERP), issued December 8, 2009, requires the following components of a formal enforcement action:

1) Contain a description of the non-compliant violation, a citation to the applicable State, or federal law or rule, a statement of what is required to return to compliance, and a compliance schedule; and

2) Provide the State with authority to impose penalties for violation of the State's enforcement document.

ADEQ typically does not issue enforcement actions with clearly defined compliance schedules due to the lack of control over external agencies' timeframes (e.g. funding application review, environmental review, right of way access, etc.). As stated in the ERP, a formal enforcement action must have the "intent and effect of bringing a non-compliant system back into compliance by a certain time with an enforceable consequence if the schedule is not met". EPA encourages ADEQ to incorporate compliance schedules with concrete return to compliance deadlines into their formal enforcement actions.

ADEQ issued 132 informal enforcement actions (Notices of Opportunity to Correct [NOCs] and/or Notices of Violations [NOVs]) to water systems to address non-compliance issues. ADEQ closed 120 NOCs/NOVs in SFY 2018. ADEQ issued 10 administrative orders. Eleven administrative orders were closed when the water systems returned to compliance in SFY 2018. ADEQ also investigated 42 complaints related to drinking water.

ADEQ is currently tracking 18 water systems with arsenic MCL violations. ADEQ returned to compliance 4 systems since July 2017. In July 2017, ADEQ originally reported 16 systems with arsenic MCL violations. Since this time, 6 systems were added to the original list. ADEQ and EPA are continuing to meet quarterly to review and discuss ADEQ's progress on addressing the remaining 18 systems, and to discuss the latest ETT list.

SUMMARY

July 2017 Systems with ETT scores of 11 or higher	**36** systems
ADEQ addressed Systems on the ETT Report (with scores of 11 or higher)	**24** systems
Administrative Orders	**10**
NOCs and/or NOVs	**132** informal enforcement actions